

Appl. No. 10/695,282
Docket No. 9083M&
Amdt. dated 11/14/06
Reply to Office Action mailed on 8/14/06
Customer No. 27752

REMARKS/ARGUMENTS

Claims 1-3, 5-13 and 22-23 are now under consideration. Claims 14-21, 24 and 25 have been cancelled as redundant in view of the amendments presented.

Claim 1 has been amended to recite the Markush group of monomers, per the disclosure at page 18, lines 11-14. Claim 1 now further recites the pH range at which the polymeric particle has a net cationic charge by virtue of said monomer(s) being protonated. (Page 17, lines 8-15.) Claim 1 now also recites the particle size range. (Page 15, line 11.)

Claim 3 has been amended to recite the preferred DMAM monomer. Basis is at page 18, line 12. Claim 5 now depends from Claim 1 and recites the "further comprise" language. Claims 12 and 13 recite the pH, as noted above.

It is submitted that all amendments are fully supported and entry is requested.

Formal Matters

For the record, there are no objections or rejections under 35 USC 112 outstanding.

Double-Patenting

The provisional double patenting rejection is again noted. However, the Examiner is respectfully requested to reconsider this matter, in view of the amendments to the claims presented herein.

Rejections Under 35 USC 103

Claims 1-3, 5-16 and 18-25 stand rejected over EP 925,776 for reasons of record at page 2 and in the previous Office Action.

Applicants respectfully traverse all rejections to the extent they may apply to the claims as now amended.

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Indeed, with regard to the claims now under consideration, it is submitted that the cited '776 document does not, on its face, support the Examiner's burden to establish a *prima facie* case of obviousness. MPEP 2142.

According to *In re Vaeck*, 20 USPQ2d 1438:

To establish a prima facie case of obviousness, three basis criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Clearly, '776 does not suggest the particle size range recited herein. '776 merely states (page 4, lines 47-48) "The resulting polymer was ground to small particles in a mechanical mixer." Nothing therein can be said to fairly teach or suggest the particle size range of the present claims.

Moreover, '776 does not suggest the monomers recited in the amended claims. While "quaternarized ammonium alkyl (meth)acrylates" are noted (page 4, line 6) these would appear to be "hard" quats. The present invention does not employ hard quats. Rather, the monomers herein are cationic by virtue of being protonated within the range of about pH 2-8. Use of such materials in place of the hard quats of '776 is not fairly suggested under *Vaeck, ibid.*

Net: Since '776 suggests neither the size nor the constituents of the present polymers, it is submitted that the rejections under §103 should be withdrawn.

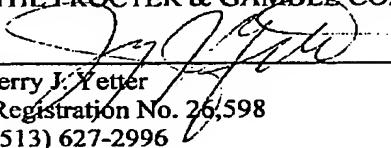
In light of the foregoing, early and favorable action in the case is requested.

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Respectfully submitted,

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